

Service Date: January 29, 1992

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF THE COMPLAINT)	
OF FOREST HILL VILLAGE SUBDIVI-)	
SION,)	UTILITY DIVISION
)	
Complainant,)	
)	DOCKET NO. 83.11.78
-VS-)	
)	
CHESTER E. AND YVONNE FERRIS,)	ORDER NO. 5600
)	
Defendant.)	

ORDER CLOSING DOCKET

BACKGROUND

On November 18, 1983 the Montana Public Service Commission (Commission) served notice of the complaint of representatives of the Forest Hill Subdivision, Kalispell, Montana, against Mr. and Mrs. Chester Ferris, owners and operators of the water system for the subdivision. The complaint alleged, essentially, that the owner and operator of the utility failed to provide adequate service and facilities, failed to keep required records, and raised the rates for water service without complying with statutory requirements.

Mr. Ferris responded to the complaint by letter dated November 22, 1983, indicating a willingness to convey the system to the Homeowners' Association.

Responding to Commission correspondence, attorney for Complainant subdivision by letter dated January 3, 1992 informed the Commission that the complaint was satisfied. The homeowners at Forest Hill Village created a nonprofit water users association, obtained easements and permits, drilled a second well for sufficient water and have been operating their own private water system.

FINDINGS AND DISCUSSION

The Commission finds that the complaint was satisfied, albeit by the actions of the homeowners themselves. Pursuant to § 69-3-101(2)(a), MCA, the Commission has no jurisdiction over privately owned water systems, such as water users associations, that do not serve the general public. Therefore, the Commission finds that the complaint should be dismissed and the docket closed.

CONCLUSIONS OF LAW

The Montana Public Service Commission properly supervises, regulates and exercises jurisdiction over public utilities pursuant to § 69-3-102, MCA.

Parties with a legal interest in the subject matter may complain of anything done or omitted to be done by any person over whom the Commission has jurisdiction pertaining to matters involving Commission jurisdiction. ARM 38.2.2101.

The defendants were owners and operators of a water system which came within the meaning of the term "public utility." § 69-3-101, MCA.

A public utility is required to provide adequate service and facilities at reasonable charges. § 69-3-201, MCA.

The Commission concludes, as a matter of law, that upon the failure of Defendants to provide adequate service and facilities, the Complainants developed their own privately owned water system to serve themselves, and therefore the system is not under the Commission's jurisdiction. § 69-3-101(2)(a), MCA.

ORDER

WHEREFORE, THE COMMISSION hereby dismisses the complaint and closes the docket.

Done and Dated this 21st day of January, 1992 by a vote of 5 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

HOWARD L. ELLIS, Chairman

DANNY OBERG, Vice Chairman

BOB ANDERSON, Commissioner

JOHN B. DRISCOLL, Commissioner

WALLACE W. "WALLY" MERCER, Commissioner

ATTEST:

Ann Peck
Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.